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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202458
Party	Defendant The McGraw Company
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Date	12/19/2011
Attachments	91202458.pdf (5 pages)(64707 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IN RE: TRADEMARK APPLICATION

By: The McGraw Company
Serial No. 85/004,633
Filed: April 1, 2010
Published: May 10, 2011
Mark: McGraw Insurance Marine

BLUE CROSS AND BLUE SHIELD
ASSOCIATION,

Opposer,

v.

THE MCGRAW COMPANY,

Applicant.

Opposition No. 91202458

**ANSWER TO NOTICE OF
OPPOSITION**

The McGraw Company, a California corporation, by its attorneys, hereby answers the Notice of Opposition of Blue Cross and Blue Shield Association identified above (the "Notice") as follows:

1. With respect to paragraph 1, Applicant admits that a Section 1(a) application, Application Serial No. 85/004,633, was filed on Applicant's behalf on or about April 1, 2010, and the USPTO records with regard to such registration speak for themselves. Applicant admits that the mark that is the subject of Application Serial No. 85/004,633 is used in a dark or navy blue color. Except as expressly admitted herein, Applicant denies the averments of paragraph 1.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 2 of the Opposition and, therefore, denies the same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 3 of the Opposition and, therefore, denies the same. Subject to this denial, Applicant admits any allegations of matters that may be established by the public record.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 4 of the Opposition and, therefore, denies the same. Subject to this denial, Applicant admits any allegations of matters that may be established by the public record.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 5 of the Opposition and, therefore, denies the same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 6 and, therefore, denies the same. Subject to this denial, Applicant admits any allegations of matters that may be established by the public record.

7. Applicant denies the averments set forth in paragraph 7 of the Opposition.

8. Applicant denies the averments set forth in paragraph 8 of the Opposition.

9. Applicant denies the averments set forth in paragraph 9 of the Opposition.

10. Applicant denies the averments set forth in paragraph 10 of the Opposition.

11. Applicant neither admits nor denies the averments contained in paragraph 11 because those allegations are conclusions of law to which no response is required. To the extent those allegations may be deemed allegations of fact, Applicant denies the averments of paragraph 11.

12. Applicant neither admits nor denies the averments contained in paragraph 12 because those allegations are conclusions of law to which no response is required. To the extent those allegations may be deemed allegations of fact, Applicant denies the averments of paragraph 12.

AFFIRMATIVE DEFENSES

In further answer to the Notice, Applicant asserts that:

1. The Opposer has failed to state a claim upon which relief may be granted.
2. The class of purchasers to whom the Opposer markets its services under its marks is distinctly different than the purchasers whom Applicant markets its services such that no likelihood of confusion exists.
3. The sophistication of the class of purchaser to whom each party markets its respective services is such that no likelihood of confusion exists.
4. The manner in which Applicant markets its services is such that Applicant's mark and Opposer's marks will not likely be encountered by consumers in situations that would create the incorrect assumption that Applicant's services and Opposer's services originate from the same source, and, therefore, no likelihood of confusion exists.
5. Applicant's use of its mark and Opposer's use of its marks are geographically remote such that no likelihood of confusion exists.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be dismissed with prejudice and that Applicant's mark be registered.

DATE: December 19, 2011

Respectfully submitted,

THE MCGRAW COMPANY

By: /s/ Andrew P. Holland
Andrew P. Holland, Esq.
Attorney for Applicant
The McGraw Company

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CERTIFICATE OF SERVICE

I, Derek Settle, hereby certify that a true and complete copy of the foregoing

ANSWER TO NOTICE OF OPPOSITION

to U.S. Trademark Application Serial No. 85/004,633 was served on the parties listed below by mailing said copies on December 19, 2011 via U.S. First Class Mail, postage pre-paid to:

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Dated: December 19, 2011

/s/ Derek Settle
Derek Settle